

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

STANLEY K. BUTTS,

Plaintiff,

v.

Case No. 06-CV-11326-DT

CITY OF DETROIT, MARY THOMAS, JOSEPH
DABLIZ, RICHARD McLATCHER and
CHRISTOPHER HARWOOD,

Defendants.

**OPINION AND ORDER DISMISSING CLAIMS
AGAINST UNSERVED INDIVIDUAL DEFENDANTS**

On March 30, 2006, Plaintiff Stanley K. Butts filed the instant action, claiming federal subject matter jurisdiction under 28 U.S.C. § 1331. In his *pro se* Complaint, Plaintiff asserts claims of assault and battery, false arrest/imprisonment, constitutional violations, and gross negligence. It appears that Plaintiff has only served Defendant City of Detroit and not any of the individually named co-defendants. On September 14, 2006, the court ordered Plaintiff to show cause why his suit against the individual defendants should not be dismissed under Federal Rule of Civil Procedure 4(m) for failure to serve a summons and complaint upon the individually named co-defendants within 120 days after the filing of his complaint.

Plaintiff responded on September 28, 2006 with a letter stating that all Defendants were served on May 24, 2006. He also filed a certificate of service for each

summons for each Defendant.¹ [Dkt #9-13.] Plaintiff signed each certificate personally, indicating that he left copies at the place of work of the individual defendants.

Plaintiff's method of service is improper under Federal Rules of Civil Procedure. "Service may be effected by any person who is not a party and who is at least 18 years of age." Fed. R. Civ. Proc. 4(c)(2). Because Plaintiff, the party who initiated this suit, was ineligible to effect service of process, the court is persuaded that Plaintiff failed to show that the individual defendants were properly served, as required by Rule 4(m), within 120 days of the filing of his suit. Accordingly,

IT IS ORDERED that the claims against Defendants Mary Thomas, Joseph Dabliz, Richard McLatcher, and Christopher Harwood are DISMISSED WITHOUT PREJUDICE.

S/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: October 4, 2006

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, October 4, 2006, by electronic and/or ordinary mail.

S/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522

¹ The docket sheet indicates that Defendant City of Detroit has responded to this suit, and therefore the September 14, 2006 Order did not require Plaintiff to demonstrate that this Defendant was served.

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